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AMENDED IN SENATE JULY 23, 2009

AMENDED IN SENATE JULY 1, 2009

AMENDED IN ASSEMBLY APRIL 22, 2009

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 479

Introduced by Assembly Member Chesbro

February 24, 2009

An act to amend Sections 41730, 41731, 41734, 41735, 41736, 41800, 42926, 44004, and 50001 of, and to add Sections 40004, 41734.5, 41780.01, and 42649 to and 41780.01 to, and to add Chapter 12.8 (commencing with Section 42649) to Part 3 of Division 30 of, the Public Resources Code, relating to solid waste.

LEGISLATIVE COUNSEL'S DIGEST

AB 479, as amended, Chesbro. Solid waste: diversion.

(1) The California Integrated Waste Management Act of 1989, which is administered by the California Integrated Waste Management Board, requires each city, county, and regional agency, if any, to develop a source reduction and recycling element of an integrated waste management plan containing specified components, including a source reduction component, a recycling component, and a composting component. With certain exceptions, the source reduction and recycling element of that plan is required to divert 50% of all solid waste from landfill disposal or transformation by January 1, 2000, through source reduction, recycling, and composting activities.

Existing law requires the board to review, at least once every 2 years, a jurisdiction's source reduction and recycling element and household hazardous waste element. The board is required to issue an order of compliance if the board finds that a jurisdiction has failed to implement its source reduction and recycling element or its household hazardous waste element, pursuant to a specified procedure. If, after issuing an order of compliance, the board finds the city, county, or regional agency has failed to make a good faith effort to implement those elements, the board is authorized to impose administrative civil penalties upon the city, county, or regional agency.

This bill would require the board, on January 1, 2020, and annually thereafter, to ensure that 75% of all solid waste generated is source reduced, recycled, and composted. The bill would prohibit the board from imposing any enforceable requirements against a local agency or a solid waste enterprise or that includes aspects of solid waste handling that are of local concern to implement this 75% diversion level.

(2) Existing law requires a local agency to impose certain requirements on an operator of a large venue or event to facilitate solid waste reduction, reuse, and recycling.

This bill would require the owner or operator of a business that contracts for solid waste services and generates more than 4 cubic yards of total solid waste and recyclable materials per week to take specified action by January 1, 2011.

The bill would require a jurisdiction to implement a commercial recycling program meeting specified elements but would not require the jurisdiction to revise its source reduction and recycling element if the jurisdiction adds or expands a commercial recycling program to meet this requirement. By requiring a jurisdiction to implement a commercial recycling program, this bill would impose a state-mandated local program.

The bill would require to board to review a jurisdiction's compliance with the above requirement as a part of the board's review of a jurisdiction's compliance with the 50% solid waste diversion requirement.

The bill would require the board, commencing in 2014 and also in 2019, to conduct a statewide study to measure the amount of greenhouse gas emissions reduction attributable to the implementation of the commercial recycling program. If the board determines that the implementation of the commercial recycling programs is not meeting the greenhouse gas emissions reduction required in the scoping plan

adopted by the State Air Resources Board pursuant to the California Global Warming Solutions Act of 2006, the bill would authorize the board to require jurisdictions that have not already done so to adopt a mandatory commercial recycling ordinance.

(3) Existing law prohibits an operator of a solid waste facility from making a significant change in the design or operation of the solid waste facility that is not authorized by the existing permit unless the change is approved by the enforcement agency. Existing law requires the enforcement agency, within 60 days of receipt of an application for a revised permit, to inform the operator of its determination.

This bill would require the enforcement agency to inform the operator that it is requiring the modification of the solid waste facility permit without a revision of the permit to allow the change if the enforcement agency determines that the proposed change meets specified requirements. By imposing new duties upon a local enforcement agency with regard to an application for a revised permit, the bill would impose a state-mandated local program.

(4) Existing law requires a city, county, and city and county to incorporate the nondisposal facility element and any amendment to the element into the revised source reduction and recycling element at the time of the 5-year revision of the source reduction and recycling element. Existing law requires the board to review an amendment to a nondisposal facility element. Existing law requires a local task force to review and comment on amendments to a nondisposal facility element.

This bill would repeal those requirements. The bill would instead require a city, county, city and county, or regional agency to update all information required to be included in the nondisposal facility element. The bill would provide that the update is not subject to approval by the board or comment and review by a local task force.

(5) Existing law requires each state agency to submit an annual report to the board summarizing its progress in reducing solid waste that is due on September 1 of each year starting in 2010.

This bill would change the due date to May 1 of each year.

~~(5)~~

(6) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. (a) The Legislature finds and declares both of
2 the following:
- 3 (1) Since the enactment of the California Integrated Waste
4 Management Act of 1989 (Division 30 (commencing with Section
5 40000) of the Public Resources Code), local governments and
6 private industries have worked jointly to create an extensive
7 material collection and recycling infrastructure and have
8 implemented effective programs to achieve a statewide diversion
9 rate above 50 percent.
- 10 (2) Although the state now leads the nation in solid waste
11 reduction and recycling, the state continues to dispose of more
12 than 40 million tons of solid waste each year, which is more than
13 the national average on a per capita basis. Additional efforts must
14 be undertaken to divert more solid waste from disposal in order
15 to conserve scarce natural resources.
- 16 (b) The Legislature further finds and declares all of the
17 following:
- 18 (1) Approximately 64 percent of the state's solid waste disposal
19 is from commercial sources, including commercial, industrial,
20 construction, and demolition activities. In addition, 8 percent of
21 the state's solid waste disposal is from multifamily residential
22 housing that is often collected along with the commercial waste
23 stream.
- 24 (2) The state's local governments have made significant progress
25 in reducing the amount of solid waste disposal from single-family
26 residential sources that make up 28 percent of the state's disposal,
27 but have faced more challenges in reducing disposal from the
28 commercial and multifamily sources.
- 29 (3) The disposal of recyclable materials in the commercial solid
30 waste stream prevents materials from circulating in the state
31 economy to produce jobs and new products. Reducing the disposal
32 of these materials will conserve landfill capacity and contribute
33 to a reduction in greenhouse gas emissions and climate change.
- 34 (4) The state has long been a national and international leader
35 in environmental stewardship efforts and mandating the diversion

1 of solid waste away from disposal. Bold environmental leadership
2 and a new approach are needed to divert commercial solid waste
3 away from disposal.

4 (5) By exercising a leadership role, the state will lead the
5 business community toward a future in which the environment
6 and the economy both grow stronger together by recycling
7 materials, which creates new jobs, instead of burying resources,
8 which exit the economy forever.

9 (6) By requiring commercial recycling, the state will help
10 businesses reduce costly disposal fees and reclaim valuable
11 resources.

12 SEC. 2. Section 40004 is added to the Public Resources Code,
13 to read:

14 40004. (a) The Legislature finds and declares all of the
15 following:

16 (1) Solid waste diversion and disposal reduction require the
17 availability of adequate solid waste processing and composting
18 capacity.

19 (2) The existing network of public and private solid waste
20 processing and composting facilities provides a net environmental
21 benefit to the communities served, and represents a valuable asset
22 and resource of this state, one that must be sustained and expanded
23 to provide the additional solid waste processing capacity that will
24 be required to achieve the additional solid waste diversion targets
25 expressed in Section 41780.01 and the commercial recycling
26 requirement expressed in Section 42649.

27 (3) The provisions in existing law that confer broad discretion
28 on local agencies to determine aspects of solid waste handling that
29 are of local concern have significantly contributed to the statewide
30 diversion rate exceeding 50 percent, and further progress toward
31 decreasing solid waste disposal requires that this essential element
32 of local control be preserved.

33 (b) It is the intent of the Legislature to encourage the
34 development of the additional solid waste processing and
35 composting capacity that is needed to meet state objectives for
36 decreasing solid waste disposal by identifying incentives for local
37 governments to locate and approve new or expanded facilities that
38 meet and exceed their capacity needs, and to recognize local
39 agencies that make significant contributions to the state's overall
40 solid waste reduction and recycling objectives through the siting

1 of facilities for the processing and composting of materials diverted
2 from the solid waste stream.

3 (c) By setting a new solid waste diversion target in Section
4 41780.01 and new commercial waste recycling requirements in
5 Section 42649, the Legislature does not intend to limit a right
6 afforded to local governments pursuant to Section 40059, or to
7 modify or abrogate in any manner the rights of a local government
8 or solid waste enterprise with regard to a solid waste handling
9 franchise or contract.

10 SEC. 3. Section 41730 of the Public Resources Code is
11 amended to read:

12 41730. Except as provided in Section 41750.1, each city shall
13 prepare, adopt, and, except for a city and county, transmit to the
14 county in which the city is located a nondisposal facility element
15 that includes all of the information required by this chapter and
16 that is consistent with the implementation of a city source reduction
17 and recycling element adopted pursuant to this part. The
18 nondisposal facility element and any updates to the element shall
19 not be subject to the approval of the county and the majority of
20 cities with the majority of the population in the incorporated area.

21 SEC. 4. Section 41731 of the Public Resources Code is
22 amended to read:

23 41731. Except as provided in Section 41750.1, each county
24 shall prepare, adopt, and, except for a city and county, transmit to
25 the cities located in the county a nondisposal facility element that
26 includes all of the information required by this chapter and that is
27 consistent with the implementation of a county source reduction
28 and recycling element adopted pursuant to this part. The
29 nondisposal facility element and any updates to the element shall
30 not be subject to the approval of the majority of cities with the
31 majority of the population in the incorporated area.

32 SEC. 5. Section 41734 of the Public Resources Code is
33 amended to read:

34 41734. (a) (1) Prior to adopting a nondisposal facility element,
35 the city, county, or regional agency shall submit the element to
36 the task force created pursuant to Section 40950 for review and
37 comment.

38 (2) Prior to adopting a regional agency nondisposal facility
39 element, if the jurisdiction of the regional agency extends beyond
40 the boundaries of a single county, the regional agency shall submit

1 the element for review and comment to each task force created
2 pursuant to Section 40950 of each county within the jurisdiction
3 of the regional agency.

4 (b) Comments by the task force shall include an assessment of
5 the regional impacts of potential diversion facilities and shall be
6 submitted to the city, county, or regional agency and to the board
7 within 90 days of the date of receipt of the nondisposal facility
8 element for review and comment.

9 SEC. 6. Section 41734.5 is added to the Public Resources Code,
10 to read:

11 41734.5. (a) Once a nondisposal facility element has been
12 adopted, the city, county, or regional agency shall update all
13 information required to be included in the nondisposal facility
14 element, including, but not limited to, new information regarding
15 existing and new, or proposed nondisposal facilities.

16 (b) Updates shall be provided to the board within 30 days of
17 any change in information.

18 (c) Copies of the updated information shall also be provided to
19 the local task force and shall be appended or otherwise added to
20 the nondisposal facility element.

21 (d) The local task force shall not be required to review and
22 comment on the updates to the nondisposal facility elements.

23 (e) Updates to the nondisposal facility elements are not subject
24 to approval by the board.

25 SEC. 7. Section 41735 of the Public Resources Code is
26 amended to read:

27 41735. (a) Notwithstanding Division 13 (commencing with
28 Section 21000), the adoption or update of a nondisposal facility
29 element shall not be subject to environmental review.

30 (b) Local agencies may impose a fee on project proponents to
31 fund their necessary and actual costs of preparing and approving
32 updates to nondisposal facility elements.

33 SEC. 8. Section 41736 of the Public Resources Code is
34 amended to read:

35 41736. It is not the intent of the Legislature to require cities
36 and counties to revise their source reduction and recycling elements
37 to comply with the requirements of this chapter.

38 SEC. 9. Section 41780.01 is added to the Public Resources
39 Code, to read:

1 41780.01. On or before January 1, 2020, and annually
2 thereafter, the board shall ensure that 75 percent of solid waste
3 generated is source reduced, recycled, or composted. In
4 implementing this section, the board shall not include any
5 requirements that are enforceable against a local agency or solid
6 waste enterprise, or that includes aspects of solid waste handling
7 that are of local concern.

8 SEC. 10. Section 41800 of the Public Resources Code is
9 amended to read:

10 41800. (a) Except as provided in subdivision (b), within 120
11 days from the date of receipt of a countywide or regional integrated
12 waste management plan that the board has determined to be
13 complete, or any element of the plan that the board has determined
14 to be complete, the board shall determine whether the plan or
15 element is in compliance with Article 2 (commencing with Section
16 40050) of Chapter 1 of Part 1, Chapter 2 (commencing with Section
17 41000), and Chapter 5 (commencing with Section 41750), and,
18 based upon that determination, the board shall approve,
19 conditionally approve, or disapprove the plan or element.

20 (b) (1) Within 120 days from the date of receipt of a city,
21 county, or regional agency nondisposal facility element that the
22 board has determined to be complete, the board shall determine
23 whether the element that the board has determined to be complete
24 is in compliance with Chapter 4.5 (commencing with Section
25 41730) and Article 1 (commencing with Section 41780) of Chapter
26 6, and, based upon that determination, the board shall approve,
27 conditionally approve, or disapprove the element within that time
28 period.

29 (2) In reviewing the element, the board shall:

30 (A) Not consider the estimated capacity of the facility or
31 facilities in the element unless the board determines that this
32 information is needed to determine whether the element meets the
33 requirements of Article 1 (commencing with Section 41780) of
34 Chapter 6.

35 (B) Recognize that individual facilities represent portions of
36 local plans or programs that are designed to achieve the diversion
37 requirements of Section 41780 and therefore may not arbitrarily
38 require new or expanded diversion at proposed facilities.

1 (C) Not disapprove an element that includes a transfer station
2 or other facility solely because the facility does not contribute
3 towards the jurisdiction's efforts to comply with Section 41780.

4 (c) If the board does not act to approve, conditionally approve,
5 or disapprove an element that the board has determined to be
6 complete within 120 days, the board shall be deemed to have
7 approved the element.

8 ~~SEC. 11. Section 42649 is added to the Public Resources Code,~~
9 ~~to read:~~

10 ~~42649. (a) On or before January 1, 2011, the owner or operator~~
11 ~~of a business that contracts for solid waste services and generates~~
12 ~~more than four cubic yards of total solid waste and recyclable~~
13 ~~materials that are not solid waste per week shall arrange for~~
14 ~~recycling services, consistent with state or local laws or~~
15 ~~requirements, including a local ordinance or agreement, applicable~~
16 ~~to the collection, handling, or recycling of solid waste, to the extent~~
17 ~~that these services are offered and reasonably available from a~~
18 ~~local service provider.~~

19 ~~(b) A commercial waste generator shall take either of the~~
20 ~~following actions:~~

21 ~~(1) Source separate specified recyclable materials from solid~~
22 ~~waste and subscribe to a basic level of recycling service that~~
23 ~~includes the collection of those recyclable materials or specific~~
24 ~~provisions for authorized self-hauling.~~

25 ~~(2) Subscribe to an alternative type of recycling service that~~
26 ~~may include mixed waste processing that yields diversion results~~
27 ~~comparable to source separation.~~

28 ~~(c) For the purposes of this section, "business" means a~~
29 ~~commercial entity operated by a firm, partnership, proprietorship,~~
30 ~~joint stock company, corporation, or association that is organized~~
31 ~~as a for-profit or nonprofit entity.~~

32 ~~(d) This section does not limit the authority of a local agency~~
33 ~~to adopt, implement, or enforce a local commercial recycling~~
34 ~~requirement that is more stringent or comprehensive than the~~
35 ~~requirements of this section or limit the authority of a local agency~~
36 ~~in a county with a population of less than 200,000 to require~~
37 ~~commercial recycling.~~

38 ~~(e) This section does not modify or abrogate in any manner any~~
39 ~~of the following:~~

1 ~~(1) A franchise granted or extended by a city, county, or other~~
2 ~~local government agency.~~

3 ~~(2) A contract, license, or permit to collect solid waste~~
4 ~~previously granted or extended by a city, county, or other local~~
5 ~~government agency.~~

6 ~~(3) The existing right of a business to sell or donate their~~
7 ~~recyclable materials.~~

8 ~~(f) (1) When adopting an ordinance pursuant to this section, a~~
9 ~~local agency may consider the adequacy of areas for collecting~~
10 ~~and loading recyclable materials.~~

11 ~~(2) Notwithstanding paragraph (1), a local agency shall not~~
12 ~~consider the adequacy of areas for collecting and loading recyclable~~
13 ~~materials for purposes of determining noncompliance with this~~
14 ~~section at a development project, as defined pursuant to Section~~
15 ~~42905, if the development project was approved by the local~~
16 ~~agency on or after September 1, 1994.~~

17 ~~(g) Pursuant to Section 40059, a county, city, district, or other~~
18 ~~local government agency may determine aspects of, and means~~
19 ~~of, providing the recycling services required under subdivision~~
20 ~~(a).~~

21 *SEC. 11. Chapter 12.8 (commencing with Section 42649) is*
22 *added to Part 3 of Division 30 of the Public Resources Code, to*
23 *read:*

24
25 *CHAPTER 12.8. COMMERCIAL RECYCLING*

26
27 *42649. (a) It is the intent of the Legislature in enacting this*
28 *chapter to assist the board and the State Air Resources Board in*
29 *implementing that portion of the scoping plan developed pursuant*
30 *to the California Global Warming Solutions Act of 2006 (Division*
31 *25.5 (commencing with Section 38500) of the Health and Safety*
32 *Code) that requires mandatory commercial recycling.*

33 *(b) It is the intent of the Legislature to require businesses to*
34 *recycle solid waste that they generate.*

35 *(c) It is the intent of the Legislature to allow jurisdictions*
36 *flexibility in developing and maintaining commercial recycling*
37 *programs.*

38 *(d) It is the intent of the Legislature that the board should be*
39 *responsible for measuring and evaluating the reduction of*
40 *greenhouse gas emissions, as required by the scoping plan, and*

1 *that the board should have the authority to require additional*
2 *measures if the board determines that the greenhouse gas*
3 *reductions are not being met.*

4 *42649.1. For the purposes of this chapter, the following terms*
5 *mean the following:*

6 *(a) "Business" means a commercial entity operated by a firm,*
7 *partnership, proprietorship, joint stock company, corporation, or*
8 *association that is organized as a for-profit or nonprofit entity, or*
9 *a multifamily residential dwelling of five units or more.*

10 *(b) "Commercial waste generator" means a business subject*
11 *to subdivision (a) of Section 42469.2.*

12 *(c) "Self-hauler" means a business that hauls its own waste*
13 *rather than contracting for that service.*

14 *42469.2. (a) On or before January 1, 2011, the owner or*
15 *operator of a business that contracts for solid waste services and*
16 *generates more than four cubic yards of total solid waste and*
17 *recyclable materials that are not solid waste per week shall*
18 *arrange for recycling services, consistent with state or local laws*
19 *or requirements, including a local ordinance or agreement,*
20 *applicable to the collection, handling, or recycling of solid waste,*
21 *to the extent that these services are offered and reasonably*
22 *available from a local service provider.*

23 *(b) A commercial waste generator shall take either of the*
24 *following actions:*

25 *(1) Source separate specified recyclable materials from solid*
26 *waste and subscribe to a basic level of recycling service that*
27 *includes the collection of those recyclable materials or specific*
28 *provisions for authorized self-hauling.*

29 *(2) Subscribe to an alternative type of recycling service that*
30 *may include mixed waste processing that yields diversion results*
31 *comparable to source separation.*

32 *42649.3. (a) All jurisdictions shall implement a commercial*
33 *recycling program designed to divert solid waste from businesses*
34 *whether or not the jurisdiction has met the requirements of Section*
35 *41780.*

36 *(b) If a jurisdiction already has a commercial recycling program*
37 *as one of its diversion elements that meets the requirements of this*
38 *section, it shall not be required to implement a new or expanded*
39 *commercial recycling program.*

1 (c) *The commercial recycling program shall be directed at a*
2 *business, as defined in subdivision (a) of Section 42649.1, and*
3 *may include, but is not limited to, any of the following:*

4 (1) *Implementing a mandatory commercial recycling policy or*
5 *ordinance.*

6 (2) *Requiring a mandatory commercial recycling program*
7 *through a franchise contract or agreement.*

8 (3) *Requiring all commercial recycling material to go through*
9 *a mixed processing system that diverts material at a certain rate.*

10 (d) *The commercial recycling program shall include education*
11 *and outreach to businesses.*

12 (e) *The commercial recycling program may include enforcement*
13 *and monitoring provisions.*

14 (f) *The commercial recycling program may include certification*
15 *requirements for self-haulers.*

16 (g) *The board shall review a jurisdiction's compliance with this*
17 *section as part of the board's review required by Section 41825.*

18 42469.4. (a) *If a jurisdiction adds or expands a commercial*
19 *recycling program to meet the requirements of Section 42469.3,*
20 *the jurisdiction shall not be required to revise its source reduction*
21 *and recycling element, or obtain the board's approval pursuant*
22 *to Article 1 (commencing with Section 41800) of Chapter 7 of Part*
23 *1.*

24 (b) *If an addition or expansion of a jurisdiction's commercial*
25 *recycling program is necessary, the jurisdiction shall do so by*
26 *providing updates in its annual report required pursuant to Section*
27 *41821.*

28 42469.5. *Commencing in 2014 and also in 2019, the board*
29 *shall conduct a statewide study to measure the amount of*
30 *greenhouse gas that is being reduced as a result of the*
31 *implementation of the commercial recycling programs required*
32 *pursuant to Section 42469.3. If requested the businesses shall be*
33 *required to report to the board any data that the board deems*
34 *necessary to conduct the statewide study.*

35 42469.6. *After conducting the study pursuant to Section*
36 *42469.5, if the board determines that the commercial recycling*
37 *programs required pursuant to Section 42469.3 are not meeting*
38 *the greenhouse gas reductions required by the scoping plan*
39 *adopted by the State Air Resources Board pursuant to the*
40 *California Global Warming Solutions Act of 2006 (Division 25.5*

1 (*commencing with Section 38500*) of the Health and Safety Code),
2 the board may require jurisdictions that have not already done so
3 to adopt a mandatory commercial recycling ordinance.

4 42469.7. (a) This chapter does not limit the authority of a
5 local agency to adopt, implement, or enforce a local commercial
6 recycling requirement that is more stringent or comprehensive
7 than the requirements of this section or limit the authority of a
8 local agency in a county with a population of less than 200,000
9 to require commercial recycling.

10 (b) This chapter does not modify or abrogate in any manner
11 any of the following:

12 (1) A franchise granted or extended by a city, county, or other
13 local government agency.

14 (2) A contract, license, or permit to collect solid waste
15 previously granted or extended by a city, county, or other local
16 government agency.

17 (3) The existing right of a business to sell or donate its
18 recyclable materials.

19 SEC. 12. Section 42926 of the Public Resources Code is
20 amended to read:

21 42926. (a) In addition to the information provided to the board
22 pursuant to Section 12167.1 of the Public Contract Code, each
23 state agency shall submit an annual report to the board summarizing
24 its progress in reducing solid waste as required by Section 42921.
25 The annual report shall be due on or before September 1, 2009,
26 and on or before ~~September~~ May 1 in each subsequent year. The
27 information in this report shall encompass the previous calendar
28 year.

29 (b) Each state agency's annual report to the board shall, at a
30 minimum, include all of the following:

31 (1) Calculations of annual disposal reduction.

32 (2) Information on the changes in waste generated or disposed
33 of due to increases or decreases in employees, economics, or other
34 factors.

35 (3) A summary of progress made in implementing the integrated
36 waste management plan.

37 (4) The extent to which the state agency intends to utilize
38 programs or facilities established by the local agency for the
39 handling, diversion, and disposal of solid waste. If the state agency
40 does not intend to utilize those established programs or facilities,

1 the state agency shall identify sufficient disposal capacity for solid
2 waste that is not source reduced, recycled, or composted.

3 (5) Other information relevant to compliance with Section
4 42921.

5 (c) The board shall use, but is not limited to the use of, the
6 annual report in the determination of whether the agency's
7 integrated waste management plan needs to be revised.

8 ~~SEC. 12.~~

9 *SEC. 13.* Section 44004 of the Public Resources Code is
10 amended to read:

11 44004. (a) An operator of a solid waste facility may not make
12 a significant change in the design or operation of the solid waste
13 facility that is not authorized by the existing permit, unless the
14 change is approved by the enforcement agency, the change
15 conforms with this division and all regulations adopted pursuant
16 to this division, and the terms and conditions of the solid waste
17 facilities permit are revised to reflect the change.

18 (b) If the operator wishes to change the design or operation of
19 the solid waste facility in a manner that is not authorized by the
20 existing permit, the operator shall file an application for revision
21 of the existing solid waste facilities permit with the enforcement
22 agency. The application shall be filed at least 180 days in advance
23 of the date when the proposed modification is to take place unless
24 the 180-day time period is waived by the enforcement agency.

25 (c) The enforcement agency shall review the application to
26 determine all of the following:

27 (1) Whether the change conforms with this division and all
28 regulations adopted pursuant to this division.

29 (2) Whether the change requires review pursuant to Division
30 13 (commencing with Section 21000).

31 (d) Within 60 days from the date of the receipt of the application
32 for a revised permit, the enforcement agency shall inform the
33 operator, and if the enforcement agency is a local enforcement
34 agency, also inform the board, of its determination to do any of
35 the following:

36 (1) Allow the change without a revision to the permit.

37 (2) Allow the following changes without a revision to the permit
38 through a modification to the permits allowed pursuant to
39 regulations developed by the board:

1 (A) The proposed change is to allow a nondisposal facility to
2 increase the amount of solid waste that it may handle and that
3 increased amount is within the existing design capacity as described
4 in the facility's transfer processing report and review pursuant to
5 Division 13 (commencing with Section 21000).

6 (B) The proposed change is to allow a disposal facility to add
7 a nondisposal activity to the facility that will increase the amount
8 of solid waste that may be handled as described in the facility's
9 report of facility information and review pursuant to Division 13
10 (commencing with Section 21000).

11 (3) Disallow the change because it does not conform with the
12 requirements of this division or the regulations adopted pursuant
13 to this division.

14 (4) Require a revision of the solid waste facilities permit to
15 allow the change.

16 (5) Require review under Division 13 (commencing with Section
17 21000) before a decision is made.

18 (e) The operator has 30 days within which to appeal the decision
19 of the enforcement agency to the hearing panel, as authorized
20 pursuant to Article 2 (commencing with Section 44305) of Chapter
21 4. The enforcement agency shall provide notice of a hearing held
22 pursuant to this subdivision in the same manner as notice is
23 provided pursuant to subdivision (h).

24 (f) Under circumstances that present an immediate danger to
25 the public health and safety or to the environment, as determined
26 by the enforcement agency, the 180-day filing period may be
27 waived.

28 (g) (1) A permit revision is not required for the temporary
29 suspension of activities at a solid waste facility if the suspension
30 meets either of the following criteria:

31 (A) The suspension is for the maintenance or minor
32 modifications to a solid waste unit or to solid waste management
33 equipment.

34 (B) The suspension is for temporarily ceasing the receipt of
35 solid waste at a solid waste management facility and the owner or
36 operator is in compliance with all other applicable terms and
37 conditions of the solid waste facilities permit and minimum
38 standards adopted by the board.

39 (2) An owner or operator of a solid waste facility who
40 temporarily suspends operations shall remain subject to the closure

1 and postclosure maintenance requirements of this division and to
2 all other requirements imposed by federal law pertaining to the
3 operation of a solid waste facility.

4 (3) The enforcement agency may impose any reasonable
5 conditions relating to the maintenance of the solid waste facility,
6 environmental monitoring, and periodic reporting during the period
7 of temporary suspension. The board may also impose any
8 reasonable conditions determined to be necessary to ensure
9 compliance with applicable state standards.

10 (h) (1) (A) Before making its determination pursuant to
11 subdivision (d), the enforcement agency shall submit the proposed
12 determination to the board for comment and hold at least one public
13 hearing on the proposed determination. The enforcement agency
14 shall give notice of the hearing pursuant to Section 65091 of the
15 Government Code, except that the notice shall be provided to all
16 owners of real property within a distance other than 300 feet of
17 the real property that is the subject of the hearing, if specified in
18 the regulations adopted by the board pursuant to subdivision (i).
19 The enforcement agency shall also provide notice of the hearing
20 to the board when it submits the proposed determination to the
21 board.

22 (B) The enforcement agency shall mail or deliver the notice
23 required pursuant to subparagraph (A) at least 10 days prior to the
24 date of the hearing to any person who has filed a written request
25 for the notice with a person designated by the enforcement agency
26 to receive these requests. The enforcement agency may charge a
27 fee to the requester in an amount that is reasonably related to the
28 costs of providing this service and the enforcement agency may
29 require each request to be annually renewed.

30 (C) The enforcement agency shall consider environmental justice
31 issues when preparing and distributing the notice to ensure that
32 the notice is concise and understandable for
33 limited-English-speaking populations.

34 (2) If the board comments pursuant to paragraph (1), the board
35 shall specify whether the proposed determination is consistent with
36 the regulation adopted pursuant to subdivision (i).

37 (i) (1) The board shall, to the extent resources are available,
38 adopt regulations that implement subdivision (h) and define the
39 term “significant change in the design or operation of the solid
40 waste facility that is not authorized by the existing permit.”

1 (2) While formulating and adopting the regulations required
2 pursuant to paragraph (1), the board shall consider
3 recommendations of the Working Group on Environmental Justice
4 and the advisory group made pursuant to Sections 71113 and 71114
5 and the report required pursuant to Section 71115.

6 ~~SEC. 13.~~

7 *SEC. 14.* Section 50001 of the Public Resources Code is
8 amended to read:

9 50001. (a) Except as provided by subdivision (b), after a
10 countywide or regional agency integrated waste management plan
11 has been approved by the California Integrated Waste Management
12 Board pursuant to Division 30 (commencing with Section 40000),
13 a person shall not establish or expand a solid waste facility, as
14 defined in Section 40194, in the county unless the solid waste
15 facility meets one of the following criteria:

16 (1) The solid waste facility is a disposal facility or a
17 transformation facility, the location of which is identified in the
18 countywide siting element or amendment thereto, which has been
19 approved pursuant to Section 41721.

20 (2) The solid waste facility is a facility that is designed to
21 recover for reuse or recycling at least 5 percent of the total volume
22 of material received by the facility, and that is described in the
23 nondisposal facility element that has been approved pursuant to
24 Section 41800 or is included in an update to that element.

25 (b) Solid waste facilities other than those specified in paragraphs
26 (1) and (2) of subdivision (a) shall not be required to comply with
27 the requirements of this section.

28 (c) The person or agency proposing to establish a solid waste
29 facility shall prepare and submit a site identification and description
30 of the proposed facility to the task force established pursuant to
31 Section 40950. Within 90 days after the site identification and
32 description is submitted to the task force, the task force shall meet
33 and comment on the proposed solid waste facility in writing. These
34 comments shall include, but are not limited to, the relationship
35 between the proposed solid waste facility and the implementation
36 schedule requirements of Section 41780 and the regional impact
37 of the facility. The task force shall transmit these comments to the
38 person or public agency proposing establishment of the solid waste
39 facility, to the county, and to all cities within the county. The

1 comments shall become part of the official record of the proposed
2 solid waste facility.

3 (d) The review and comment by the local task force shall not
4 be required for an update to a nondisposal facility element.

5 ~~SEC. 14.~~

6 *SEC. 15.* No reimbursement is required by this act pursuant to
7 Section 6 of Article XIII B of the California Constitution because
8 a local agency or school district has the authority to levy service
9 charges, fees, or assessments sufficient to pay for the program or
10 level of service mandated by this act, within the meaning of Section
11 17556 of the Government Code.